

SYCAMORE SPRINGS SUBDIVISION

14336

SYCAMORE SPRINGS
 Dedication of Plat and
 Declaration of Protective Covenants,
 Conditions and Restrictions

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, referred to as "Declarant", does hereby record the plat of a subdivision known as SYCAMORE SPRINGS SUBDIVISION, lying and being situate in Moorefield District, Hardy County, West Virginia, and being more fully described on the plat and survey of Larry Kitzmiller, L.L.S., and dated July, 1988, and made a part hereof, and recorded in the Clerk's Office of the County Commission of Hardy County, West Virginia, just prior to the recording of this instrument in Plat Book No. 4, page (not yet assigned) to which reference is hereby made, and said real estate being part of a larger tract of real estate conveyed to Renick C. Williams and Betty P. Williams, by deed from Irene S. Ansel, widow, et als, dated April 29, 1988, and recorded in the Hardy County Clerk's Office in Deed Book No. 199, page 183.

All lots in the SYCAMORE SPRINGS SUBDIVISION shall be subject to the following protective covenants, conditions, and restrictions and easements which shall run with the land and shall be binding upon all subsequent owners of the lots:

ARTICLE I - DEFINITIONS

1. "Association" shall mean and refer to SYCAMORE SPRINGS Property Owners Association, its successors and assigns.
2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
3. "Property" shall mean and refer to that certain real property described above and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
4. "Lot" shall mean and refer to any numbered or lettered plat of land shown upon any recorded subdivision plat of the property.
5. "Common Area" and "Access" to the South Branch of the Potomac River shall mean and refer to that area of land shown on the subdivision plat and being intended for the common use and enjoyment of all owners, and any other property that may be transferred to the Association, as designated as "Common Area" or "Access" by the association.
6. "Declarant" shall mean and refer to Renick C. Williams and Betty P. Williams, his wife, their heirs and assigns.

ARTICLE II- MEMBERSHIP AND VOTING RIGHTS

1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.
2. On or before January 15, 1989, or when three-fourths (3/4) of the lots have been sold, whichever occurs first, a Property Owners Association shall be established with membership consisting of the Owners (and only the owners) of each lot in SYCAMORE SPRINGS SUBDIVISION who shall have one (1) vote per lot owned. The Association shall be governed by the majority of the lot owners. A Board of Directors of three (3) members shall be elected by the lot owners.

The initial Directors of the Association consisting of one

to three members shall be appointed by the Declarant or their assigns and thereafter the Board of Directors shall be elected by the lot owners. The initial Directors shall be responsible for calling the first meeting of the Property Owners Association on or before April 15, 1989, and shall be responsible for the mailing of the written notice of the lot assessment which is due and payable by April 15, 1989. The meeting shall be held in Hardy County, West Virginia, at a suitable place to be designated by the initial Board of Directors. At said meeting the said owners shall, by majority vote, form the said Association's legal entity as they deem advisable and shall elect a Board of Directors and or officers of said Association.

ARTICLE III COVENANT FOR MAINTENANCE ASSESSMENT

The Declarant shall assess initially, for each Lot, ONE HUNDRED DOLLARS (\$100.00) per year for the use, upkeep and maintenance of the rights-of-ways within SYCAMORE SPRINGS SUBDIVISION; upkeep and maintenance of the rights-of-ways (which maintenance includes repair, maintenance and replacement of the existing bridge located near Old U. S. Route 220) to and from the subdivision across the private right of way leading to Old U. S. Route 220, subject to increase in the manner provided herein. hereinafter. Irene S. Ansel, et als, have retained ownership to eleven lots situate on the South Branch of the Potomac River, and same are referred to in the deed of conveyance to the Declarant, dated April 29, 1988, and recorded in the Hardy County Clerk's Office in Deed Book no. 199, p. 183. There is a provision in said deed of conveyance which requires the grantees who should purchase the eleven lots, or any of them, from Irene Ansel et als, to contribute the same amount as the Owners of Sycamore Springs Subdivision to the maintenance of the subdivision roads and the private right of way which leads to Old U. S. Route 220. Reference is made to this deed aforesaid for any and all pertinent information.

It is also understood that Joan S. Leatherman; Alec Zirk and Marjorie Zirk, his wife; and Irene S. Ansel have dwellinghouses adjoining the private right of way and in close proximity to Old U. S. Route 220. Each of them, their heirs and assigns, shall have a prorata duty to contribute to the maintenance of the private right of way leading to Old U. S. 220, insofar as their real estate benefits from the use of same. Additionally, the Declarant has other real estate situate on both sides of the private right of way and Declarant hereby reserves the use of the private right of way leading to Old U. S. Route 220 for the benefit of Declarant's residue. Insofar as Declarant actually uses the private road leading to Old U. S. Route 220 for the benefit of his residue, Declarant shall contribute to the maintenance of same.

Additionally, Declarant reserves the right to use the subdivision roads, as necessary to obtain ingress and egress to Declarant's "Reserve", which is shown on the plat.

All subdivision roads are 30 feet in width, unless otherwise specified on the plat, and all private roads leading from Old U. S. Route 220 to the subdivision are 30 feet in width, except where the plat indicates a narrower width, and then said plats are "existing" width, or the width indicated on the plat.

2. Any assessment made pursuant to this paragraph, including a late fee of Five Dollars (\$5.00), interest at the rate of ten percent (10%) per annum from the date of delinquency, and reasonable attorney's fees incurred in the collection thereof, shall constitute a lien on this property until paid. The lien is expressly inferior and subordinate to any mortgage liens presently or hereafter encumbering the property affected by these protective covenants. This assessment may not be increased by more than a percentage increase greater than the Cost of

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Living Index (Urban) as published by the Department of Interior, Bureau of Standards. The owner of each lot, by acceptance of a deed thereto, automatically becomes a member of the Property Owners Association and is deemed to covenant and agree to pay One Hundred Dollars (\$100.00) per lot per year, beginning April 15, 1989, and to pay annually thereafter to the Property Owners Association, to be created as herein set forth, an amount determined by the positive vote of owners of at least two-thirds (2/3) of the lots in said subdivision as necessary for the purpose of maintaining and improving rights-of-ways and roadways shown on the subdivision plat, and the right-of-way from said subdivision to Old U. S. Route 220 over other real estate not a part of this subdivision. Beginning the winter of each year hereafter said Association shall notify each lot owner in writing, as to the amount of the lot assessment which shall be due and payable by the lot owner to the SYCAMORE SPRINGS Lot Owners Association. In the event of a resale or transfer of one or more parcels in said subdivision, this obligation shall run with the land and become the obligation of the new owner(s) even though it may have been assessed to a prior owner. In the event of a transfer by judicial sale or sale under Deed of Trust, any past due and unpaid road maintenance fees shall be paid by the party forcing the sale of the lot, or be paid by the new purchaser. This section does not apply to Declarant should they reacquire title through judicial sale, deed of trust sale, or by voluntary sale from Owner. See Paragraph no. 4 below.

3. If the Owner of any Lot is in default in the payment of any assessments, including interest and costs of collection, in addition to any other means of collection, the Property Owners Association may bring an action at law against the owner personally obligated to pay same and may also sell the lot involved at a public auction after advertisement once a week for two (2) successive weeks, in a newspaper having general circulation in Hardy County, and after thirty (30) days written notice mailed to the last known address of said owner. Cost of sale, including reasonable and necessary attorney fees, advertising costs, auctioneering fees, recording fees, and other necessarily incurred costs shall be paid from the proceeds of sale before the payment of amount involved. Or, if the owner chooses to pay the assessments before sale of the property, the costs incurred to date of owner's payment of the assessment shall be collected from the owner as a condition precedent to cancellation of the sale.

4. In exchange for Declarant's agreement to install and maintain said roadways and rights-of-way until May 1, 1989, the Declarant shall be forever exempt from the payment of said annual assessments and maintenance fees and assessment fees as to all presently owned by or later reacquired by the Declarant. In the event the Declarant should reacquire real estate through purchase at a foreclosure sale or through settlement of Owner's default in any contract, note or deed of trust that Owner should be obliged to pay the Declarant, Declarant shall not be required to pay any past due Assessments that the previous Owner may have owed the Association, nor shall Declarant be required in the future to contribute to the maintenance of the roadways.

5. 1 If any one owner owns two or more adjoining lots, only one assessment shall be payable so long as two or more adjoining lots are so owned, and only one house is built by said owner of said lots. If any of said lots is hereafter sold or conveyed or improved by an additional dwelling, it shall be subject to separate assessment of \$100.00. Nothing herein shall be deemed to alter the "one vote per one lot owned" rule which is established in Article II, paragraph 2 above.

ARTICLE IV USE RESTRICTIONS

1. No signs or advertising of any nature shall be erected

or maintained on any lot, except for sale or rental signs not to exceed six (6) square feet in area, except for directional and informational signs of Declarant.

2. No further subdivision is allowed of any lot.

3. No owner of any lot shall interfere with the natural drainage of surface water from such lot to the detriment of any other lot. Consequently, in the construction of a driveway into any lot, a twelve (12) inch diameter culvert, or larger if necessary, shall be used in constructing the driveway in order to alleviate blockage of natural drainage. No parking is permitted upon any subdivision roads within the subdivision at any time and as part of the development of any lot, the Owner shall provide adequate off-road parking for owner and his guest(s).

4. Due to the unsightliness of junk vehicles on lots, no motor vehicle which does not have current license plates or an inspection sticker not more than six (6) months out of date shall be permitted on any Lot. House trailers may be placed on any lot so long as the written permission from the Declarant is obtained and furnished the owner prior to placement of the trailer on the premises and provided further so long as any Hardy County regulations with regard to house trailers (mobile homes) are complied with. Three years after the date of these Covenants, Declarant's right to regulate the presence of house trailers within SYCAMORE SPRINGS is hereby assigned unto the SYCAMORE SPRINGS Proper Owners Association. Setback lines for mobile homes shall be 100 feet from the center line of the subdivision road unless otherwise approved by Declarant or their assigns. Notwithstanding the foregoing, the setback lines for mobile homes Lots One and Two of SYCAMORE SPRINGS shall be 50 feet from the center line of the subdivision road, unless otherwise approved by the Declarant or their assigns. Temporary camping trailers may be placed on any lot, but the Owner must place temporary campers and/or tents (and accessories) 25 feet from the center line of the subdivision road.

5. No building of a temporary nature shall be erected or placed on any lot except those customarily erected in connection with building operations and in such cases, for a period not to exceed eight (8) months, provided however nothing shall be construed to prevent the owner from erecting tents on the lot and to camp overnight in said tents for a period of up to thirty (30) days.

6. Not more than one single family residence shall be erected on a lot. Residences shall contain a minimum of 480 feet, and seasonal cabins shall contain a minimum of 320 square feet of living area, excluding basement, garage, porch, carport, deck, and overhanging eaves. Seasonal cabins shall be placed 100 feet or more from the centerline of any roadway unless otherwise approved by Declarant or their assigns. Notwithstanding the foregoing, the setback lines for seasonal cabins for Lots One and Two of SYCAMORE SPRINGS shall be 75 feet from the center line of the subdivision road, unless otherwise approved by the Declarant or their assigns. All exterior construction must be completed and closed in within eight (8) months of the commencement of construction.

7. Each lot shall be used for residential/recreational purposes only, and any garage or outbuilding must conform generally in appearance and material with any dwelling on said lot. Use of the property for any form of commercial or agricultural use or the raising of livestock or poultry (regardless of number) is not allowed within the subdivision.

Notwithstanding the prior paragraph, the following uses are permitted, subject to applicable state and local laws:

(a) Home occupations conducted by occupant.

(b) Home gardening is permitted.

8. The Owner shall maintain, repair and restore, as necessary, the exterior of any building or other improvements erected on any Lot owned by him. Owners likewise agree to repair and restore promptly to its prior condition any part of a subdivision road damaged by equipment of Owner or his contractor enroute to or from Owner's lot. All lots improved or unimproved, must be maintained by the lot owner in a neat and orderly condition at all times. No garbage, trash or inoperative vehicle or other debris shall be permitted to accumulate or remain on any lot. All flood debris situate on any lot at the time that the Owner should acquire any lot herein from Declarant shall be cleared from the lot by the Owner within twelve months of his purchase of a lot in the subdivision.

9. No permanent building shall be erected closer than forty-five (45) feet from the property line which adjoins the subdivision road, nor closer than twenty (20) feet to the side or rear property lines, with the exception that where two or more tracts are used together for the construction of one dwelling, then said twenty (20) foot setback shall apply only to the outside lines. However, where two or more lots are used together for construction of a dwellinghouse and where the twenty (20) foot setback rule is thus waived, the two or more lots which comprise the homestead shall thereafter be sold and conveyed as one unit, and may not be sold separately, but voting and membership rights shall not be affected. Setbacks for trailers is outlined under #4.

10. Each owner is responsible to comply with the building ordinance adopted by the Hardy County Commission which regulates the building of homes or structures within the one hundred year flood plain.

11. All sanitation facilities constructed on any lot shall conform with the regulations of the West Virginia County Health Department.

12. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other waste must be kept in sanitary containers. All trash, garbage, fuel storage tanks, garden equipment, supplies and stored raw materials must be kept from view of the public. In the event any lot owner shall fail to discharge his aforesaid responsibilities in a manner satisfactory to the Board of Directors of the Property Owners Association, upon two-thirds (2/3) vote of the Board of Directors, and after fifteen (15) days notice to the owners of the Property, the Property Owners Association shall have the right, through its agents and employees, to enter upon said lot and perform necessary maintenance repairs (including mowing and removal of grass over 24" high in the form of hay), and restoration, or to remove any offending material or object. Such action shall not be deemed a trespass, and the cost of same when performed by the Association shall be added to and become a part of the assessment to which such lot is subject.

13. The Declarant reserves unto themselves, their heirs and assigns, easements for the installation, erection, maintenance, operation and replacement of telephone and electric light poles, conduits and related equipment, and/or sewer, gas, telephone, cable t. v., electric and water lines on, over and under a strip of land ten (10) feet wide along all property lines not serving as the centerline for rights-of-ways, and fifteen (15) feet along all the rights-of-ways, in addition to easements reserved by any other instrument duly recorded. Nothing herein shall be construed as creating any duty on Declarant to install or maintain any utility services however, as it is contemplated that actual installation will be made at the expense of the utility and/or the owners.

14. Each lot owner shall have an unobstructed and the nonexclusive thirty foot right of ingress and egress to and from his lot over the rights-of-ways and roadways as shown on the subdivision plat, and a right-of-way thirty feet in width over the Road shown on the plat which provides ingress and egress with Old U. S. 220. The Lot Owners Association shall be responsible for maintenance of the subdivision roads, and responsible for the maintenance of the access road to and from Old U.S. 220. The rights-of-ways shall be subject to the common usage of the declarant, their heirs and assigns. The declarant reserves the right to add additional real estate to the SYCAMORE SPRINGS SUBDIVISION, or to create a subdivision adjoining the SYCAMORE SPRINGS SUBDIVISION, provided however, Declarant agrees any future subdivision shall have similar covenants provided for herein and that any new subdivision which utilizes the subdivision road system utilized by SYCAMORE SPRINGS shall require the lot owners to contribute to the maintenance of the subdivision road system.

15. The use of any motorcycle, dirt bike, all terrains vehicles, or other similar motorized conveyance within the subdivision is prohibited unless it is equipped with proper noise abatement equipment.

16. Firearms shall not be discharged within five hundred (500) feet of any dwelling house. Nor shall they be discharged in such a manner that the trajectory of the projectile shall cross any of the subdivision roadways.

17. Subject to obtaining the permission and consent of the Hardy County Health Department, the Declarant does hereby grant an easement to lot owners within the subdivision for the purpose of laying and maintaining septic tank systems and drain fields, across other neighboring or adjoining lots, where a lotowner's parcel (the dominant parcel) has been found to be unsuitable to sustain a sewage disposal system by the Health Department of Hardy County, West Virginia. In the event all such lots have been previously sold by Declarant to lot owners, then these cross easements are hereby granted in advance to each of the lots in the subdivision where necessary and required to accommodate a dwelling on the lots in question, and such easements may be enforced by one lot owner against the other. Any such easement so exercised will be constructed in such a manner as to cause the least damage to the servient tract, and such easement shall include the right to lay pipes to and from the sewage disposal systems and shall include the right of repair and reinstallation of same in the future. Any Owner exercising such a right, however, has the duty to replace the surface of the servient tract to the same condition as it existed prior to the construction activity and to reseed the real estate to the satisfaction of the owner of the servient tract. Any such easements granted herein shall be invalid, however, if its installation would prevent the servient tract or parcel from reasonably being utilized as a homesite as planned.

18. If any lot owner shall violate any of the covenants herein, it shall be lawful for any other person or persons owning any real estate situated in said subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, either to prevent him or them from so doing or to recover damages or other dues for such violation. Failure to enforce any provision herein contained shall in no way be deemed a waiver of the right to do so hereafter.

19. The Common Area and Access to the South Branch of the Potomac River shown on the subdivision plat shall constitute an easement for the use of all Owners and their guests in order that they may enjoy more fully the ecology and natural environment of the SYCAMORE SPRINGS SUBDIVISION. The Board of Directors shall, at its initial meeting, enact rules and regulations regarding the

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use of the common area and parking access. Rules and regulations shall be established on majority vote of the Board of Directors, and they shall be posted in a noticable location at the Common Area and Access. Copies of all rules and regulations, or amendments thereto, shall be mailed to each owner annually with his association assessment.

20. A spring is located on or near Lot 2, and although Declarant disclaims the quality of the water in the spring, the owners of Lots 1, 2, 3, and 4, subject to compliance with the rules and regulations of the W. Va. Department of Health, or any other state or federal regulation which might have pertain, shall have the right to utilize the spring for their mutual benefit and to lay lines from said spring to a reservoir, which may be installed, at their own expense, on lot 2, and also to lay lines from said reservoir to their respective lots, in order to provide water for their domestic consumption. Included in this easement is the right for any Owner to repair, maintain, replace, or improve the lines so that the intent of this paragraph may be fully realized. All expenses in installing and maintaining the spring, the reservoir, and the common lines utilized by all Owners shall be shared equally and ratably. Nothing herein shall require the development and use of the spring, as authorized herein, but if at least three of the four owners should desire to utilize the easement provided for herein, then the fourth owner shall be and is hereby mandated to contribute his/her prorata expense as provided for in this paragraph.

Although other springs are designated on the subdivision plat, no easements are created with respect to those springs.

21. Speed limit for motor vehicle travel on the access road and subdivision road shall not exceed 15 miles per hour, and should any Owner, or his guest and/or invitee, habitually break the limit, the Lotowners association, or any Owner, may apply to a Court of Competent Jurisdiction for an injunction or other appropriate relief that the Court deems meet and just.

22. The Association, by vote of two-thirds (2/3) of its members, may make additional rules, covenants, and restrictions for the use of the Property, which together with the above, may be enforced by fines or other penalties.

ARTICLE V GENERAL PROVISIONS

1. Declarant reserves the right to replat, resubdivide and renumber any unsold lot or lots, and to add additional adjoining real estate to said subdivision. Nothing herein shall be construed to prevent Declarant from imposing additional covenants or restrictions on any unsold lot(s) or other real estate later added to and becoming a part of said subdivision.

2. In the event state, local government, and utility, cooperative, Declarant, or municipality requires the installation of a public utility system within the area of which this is a part, the grantee or grantees, by the acceptance of a deed, do hereby agree to pay their proportionate share for the cost and expense of the erection, maintenance and operation thereof as the same cost is to be determined by the appropriate authority.

3. All sewage disposal systems constructed on said lots shall conform to the regulations of the appropriate West Virginia Department of Health. Free standing toilets are also subject to the aforementioned requirements and shall not be constructed unless specific authority is first obtained from the Health Department, and then they must be placed in such location with respect to the residence, cabin, trailer or accessory building located on the premises that the free standing toilet does not create an unnecessarily unsightly condition to the adjoining lot owners within the subdivision. In this connection, the Owner

should submit plans for the construction to the Property Owners Association, and obtain prior approval from the Board of Directors prior to the location and construction of a free standing toilet.

4. No building shall be constructed and no well shall be drilled on any lot until a sewage disposal permit has been obtained from the West Virginia Health Department.

5. Registered owners, who are named in any deed of conveyance from the Declarant, or their heirs or assigns, may consist of no more than six persons. Furthermore, no corporation, association, partnership, or other entity, profit or non-profit in nature, may acquire any lots in this subdivision, without the express written consent of the Declarant. The purpose of this provision is to ensure that one owner does not place an unfair burden on the common area to be created herein and the subdivision road system.

6. Lots 23 and 24 do not have frontage on the South Branch of the Potomac River, and their boundary runs only to the west side of the railroad tracks. However, Lots 23 and 24 shall have a nonexclusive foot easement to cross Declarant's residue that lays east of Lots 23 and 24 and west of the South Branch of the Potomac, in order to obtain access to the South Branch of the Potomac River. All Owners shall have the right to obtain access to that portion of the South Branch of the Potomac River that lays adjacent to Lots 22, 23, and 24, PROVIDED HOWEVER, that all access to this portion of Declarant's reserved area shall be by foot travel, and any pedestrian desiring to obtain access to this reserve area shall do so by walking in the subdivision road, which commences at the common area shown on the subdivision plat, and crosses lots 12 through 22. Nothing herein shall prevent any Owner of lot 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, or 22 from using motor vehicles on the subdivision roads for ingress and egress to his/her lot.

7. The Association, or any Owner, shall have the right to enforce by any proceedings, at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or Association or by any Owner to enforce any provisions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

8. The covenants, restrictions and other provisions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety (90%) of the lot owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the lot owners.

9. Invalidity of any of the covenants, restrictions or other provisions of this Declaration by judgment or Court Order shall in no wise affect any other provisions which shall remain in full force and effect.

10. Whenever in this Declaration the context so required, the masculine gender includes the feminine and neuter, singular number includes the plural and the plural number includes the singular.

Signed this 12th day of August, 1988.

Paul Williams
Betty P. Williams
 DECLARANTS

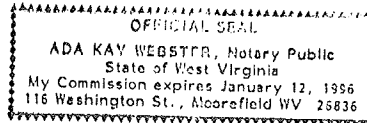
State of West Virginia,
County of Hardy, to-wit:

The foregoing instrument was acknowledged before me this the
12 day of August, 1988, by Renick C. Williams and Betty P.
Williams, his wife, in my County and State.

My commission expires Jan. 12, 1992.

Ada K. Webster
Notary Public

This instrument prepared by
Oscar M. Bean, Attorney,
116 Washington St., Drawer 30
Moorefield, W.Va. 26836.
304/5386198



STATE OF WEST VIRGINIA, Hardy County Commission Clerk's Office August 16, 1988

The foregoing Instrument, together with the certificate of its acknowledgment, was this day presented in
said office and admitted to record.

Teste

Sue L. Haeterman

Clerk.